

**Franklin Conservation Commission  
Minutes of Meeting  
June 1, 2017**

To: Town Clerk  
cc: Members  
File

Members Present: B. Batchelor, T. Henrichon, S. McLean, J. Milne, George Russell, Conservation Agent,

Members Not Present: A. Gelineau, J. Livingstone, P. Harrington.

Chairman Batchelor announced the meeting would be audio and video recorded.

Mr. George Russell's Agent's Report has been appended to the minutes.

**Public Hearing – RDA – 604 Maple Street - Dmytryck**

Mr. Thomas Dmytryck addressed the Commission for removal of dead and diseased trees. He stated the trees were located near a culvert. He had planted the spruce trees about 35 years ago and then they became diseased; after discussions with a nursery, he decided to replace the trees with junipers. In spring 2017, he removed the dead trees and burned them. He already has the replacement trees. He asked the Commission for permission to plant the new trees in the same location where the spruce trees were removed.

Mr. Russell stated he noticed this when returning from a site inspection. He notified the owner by letter; the property owner filed an RFD. The area where the trees were cut down is a resource area on the GIS mapping. As he recommended in his Agent's report, the impact of the tree cutting and proposed replacement trees should be evaluated by a wetland scientist.

Chairman Batchelor stated that any activity in a resource area must be approved. He stated it was not good to burn near a stream. He stated the hearing will be continued pending a wetland scientist's inspection. The applicant should work with Mr. Russell on the plantings to make sure they are on the list of approved plantings.

Mr. McLean suggested the applicant may want to get a delineation of the area for future reference.

There was a motion made by Scott McLean that it is the Commission's position on the RDA for 604 Maple Street that the property owner needs to retain a wetland scientist per SOP. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean to continue the public hearing for the RDA for 604 Maple Street to June 15, 2017 at 7:25 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Public Hearing – Continued – RDA – 82 Elm Street - Graf**

Ms. Gretchen Graf addressed the Commission for septic system repair.

Mr. Russell stated there was a problem with the date stamp on the photographs to show intermittent stream status; all the pictures had the same date stamp.

Ms. Graf provided photographs to the Commission showing different dates.

Mr. Russell stated one issue is that the applicant is asking the Commission to determine the stream on the property is intermittent and has provided photograph documentation. The second issue is the RDA for a new septic system. These issues overlap. If the stream is determined intermittent, then the septic system activity is not in the riverfront zone; if it is a perennial stream, then it is in the resource area riverfront zone. He recommended a two-step vote.

Ms. Henrichon questioned the date stamps on the newly provided pictures.

Mr. Russell stated he inspected it; his opinion is that it is intermittent.

There was a motion made by Scott McLean that it is the position of the Conservation Commission that the stream at 82 Elm Street is an intermittent stream. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Mr. Russell stated that even now that the applicant is out of the resource area in terms of the riverfront, they are still removing 130 cu. yds. of material, bringing in 280 cu. yds. of fill, and cutting down 24 trees in the 50 ft. and 100 ft. buffer. He opined that this should warrant a positive determination; he recommended an NOI.

Ms. Graf stated this is the only alternative location for the septic system; there are no other options.

Mr. McLean stated it is not that the Commission is saying it cannot be done, but it is a matter of the permitting process; she would have to come back for another meeting in four weeks.

Ms. Graf stated she would not be available.

Chairman Batchelor stated that without an NOI, they cannot certify septic. He stated that if she could not attend, she could authorize an engineer to serve on her behalf.

Ms. Graf confirmed she must obtain and sign the application and her engineer could represent her for the NOI.

There was a motion made by Scott McLean to close the public hearing on the RDA for 82 Elm Street. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean for a positive determination on the RDA for 82 Elm Street. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Public Hearing – ANRAD – 21 Echo Bridge Road - Brunner**

Mr. Thomas Brunner addressed the Commission to confirm the delineation of bordering vegetated wetlands. He stated that a few years ago a neighbor had their property delineated; that line comes over to his property. He wanted to know to what extent it went onto his property; he is filing an ANRAD.

Mr. Russell stated the applicant is requesting a wetlands delineation in the backyard of his property. He has done a site inspection and he agrees with the flagging. He recommended the ANRAD be granted.

Mr. Rob Lalumia, 29 Charles River Drive, stated his property backs up to the wetlands area. He stated many neighbors have received registered letters about what is or perceived as the wetlands. He has obtained a map of the area; there is a detention/retention area behind many of the homes. He asked if there is something that delineates for Charles River Drive and Echo Bridge Road that legally distinguishes what is wetlands and what is not wetlands.

Mr. Russell stated there is mapping in the Conservation office that provides a good idea of where resource areas and buffer areas are. However, the actual wetlands must be delineated by a wetland scientist who will look for vegetation and soil types. The most recent delineation in that area was done for some properties on Echo Bridge; that is the only one in that area the Commission has approved in the past three years.

Chairman Batchelor stated wetlands situations do change.

Mr. McLean confirmed that delineations are good for three years.

Mr. Lalumia asked about the health of the wetlands based on the drainage and the items he finds in it.

Mr. Russell stated he would be happy to talk with Mr. Lalumia at the office.

There was a motion made by Scott McLean to close the public hearing for the ANRAD for 21 Echo Bridge Road. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean to approve the ANRAD for 21 Echo Bridge Road. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Public Hearing – ANRAD – 469 Maple Street – Carroll Construction**

Mr. Russell recommended this be sent to peer review and no testimony be taken. He stated he has been in contact with the applicant.

Mr. Russell stated the only application in front of the Commission tonight is to determine where the wetlands line is on the property. There are no developmental plans. The Commission is most likely going to recommend this go to peer review which means the wetlands line will be reviewed by the wetland scientist. Therefore, as the wetlands line may change, there will be no testimony taken tonight. The hearing will be kept open until the peer review is done and reviewed by the Commission.

Ms. Mary Ellen Tenore, 24 Kimberlee Avenue, asked that when the wetland scientist confirms the wetlands, will the residents get another notification? Will they get notified if there is potential building? She stated there is a lot of woods and wildlife that is going to be impacted.

Mr. Russell stated Yes; the residents would be notified if the development requires a permit from the Commission. If plans are submitted, a developer would have to go through the Planning Board, and the residents would be notified about that hearing.

Commission members provided explanation about abutter notifications.

Mr. John Cetrano, 64 Bridle Path, asked about a wetlands survey that was done last September. What steps will be taken to make sure that when the wetlands were determined the drought conditions were considered? He also asked if vernal ponds are taken into account.

Mr. Russell stated wetlands are not concerned with water, they are concerned with soils and vegetation. Wetlands do not have to be wet; they have to be organic. He stated vernal pools are taken into account. He noted the State must approve vernal pool designations.

Chairman Batchelor stated it would all get inspected.

Mr. Lawrence Rettman, 5 Phaeton Lane, former member of the Conservation Commission, asked if the Commission still goes out on site walks to verify the wetlands.

Mr. Russell stated that in this case the peer reviewer will verify it.

Mr. Andrew Bissanti, 148 Brook Street, stated he thought this morning he was looking at a set of plans for this development. He asked how large the area was.

Ms. Celorier stated he was looking at the ANRAD plan.

Mr. Russell stated an ANRAD is an actual technical delineation of the wetlands line. The ANRAD is the delineation. We have what the applicant submitted; the peer reviewer must review it to verify it. The area is 1,600 ln. ft. After the verification by the peer reviewer, the developer will most likely submit developmental plans which will go before this Commission if in jurisdiction, as well as the Planning Board. He stated this is a Chapter 61B parcel.

Mr. Anthony Giacobbe, 65 Bridle Path, confirmed that the applicant hires a wetland scientist, then it goes to peer review. He asked if the peer reviewer is compensated by the applicant.

Mr. Russell stated the peer reviewer is obtained by the Commission at the expense of the applicant.

Mr. John Rondeau, 4 Ashley Circle, stated it has been wet there for years. How were the wetlands determined 17 years ago? He stated he has more wetlands on his property now.

Mr. Russell stated wetlands change over time; the State recognizes that a wetlands delineation is only good for three years.

There was a motion made by Scott McLean that the ANRAD at 469 Maple Street go out to peer review. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean to continue the public hearing for the ANRAD at 469 Maple Street to June 15, 2017 at 7:35 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

Mr. Russell commented that for anyone interested in this application, although the public hearing is continued for two weeks it will depend on whether the peer review is completed. Call the Conservation office that week to confirm if the public hearing will be going forward or continued again.

**Public Hearing – Continued - NOI – 115, 119, 125, 129 Dean Avenue – Fairfield Residential**

Mr. John Shipe, on behalf of Fairfield Residential, addressed the Commission to redevelop existing lumber yard into apartment complex with two associated garages. He introduced Mr. Brian McCarthy, civil engineer of R.J. O’Connell & Associates, and Mr. Mark Arnold, wetlands consultant of Goddard Consulting LLC. He provided an overview of the project. He stated the NOI was submitted in late March and this public hearing has been continued a few times. The current parcel is approximately 26 acres. The proposed development includes an apartment complex with six apartment buildings, 10 garages, a clubhouse, parking, and landscaping. They have been to the Planning Board, Zoning Board and Design Review. BETA did a peer review of the property as did WSI as their wetlands consultant.

Mr. Arnold provided an overview of the wetland resource areas on the property as well as the buffer zones. He discussed the riverfront and stated that does not go into the proposed work area. He reviewed the large culvert/drainage ditch on the property. The buffer zone of the property is fairly developed; he discussed the vegetation and noted there is currently pavement in the 25 ft. and the 50 ft., and gravel and bare soils in the buffer zone. Proposing to remove all the pavement inside the 25 ft. and 50 ft. They are respecting the 25-ft. buffer. They will be keeping structures to interior areas. He stated flagging changes on the wetlands have been made on the plans and they have met all the requests and comments by WSI on the wetlands delineation.

Ms. Lenore White, professional wetlands scientist of Wetland Strategies, Inc., stated she reviewed the wetlands line and the riverfront line. She stated the GIS line and the flagged line are essentially the same. She had made minor changes to the delineation because the delineation was done when the ground was covered in snow.

Mr. Russell stated he relied on WSI and BETA’s comments. There were some initial issues, but have arrived at a good understanding of where the line is. He stated almost all the stormwater issues have been resolved.

Mr. McCarthy provided an overview of the stormwater including existing conditions. The current stormwater has some pipes and catch basin; it is a very old system. It runs to a drainage ditch which discharges directly into the wetlands with no water quality treatment. The proposed development includes removing the old catch basin system and installing new system which includes three detention and infiltration basins. The system will include water quality treatment and reduce runoff volume onsite. They will also have a stormwater maintenance plan with this proposal.

Mr. Russell stated BETA Group did a review and applicant incorporated all recommended changes. Three minor issues are outstanding. He stated that he wants to make sure Planning Board and Conservation Commission are not approving different plan sets. He listed three stipulations which he outlined in detail in his Agent’s Report. In addition, he passed out a list of three additional stipulations (#4, #5, and #6) which will allow the Planning Board to receive a slightly modified plan set, but still proceed so the Conservation Commission stipulations would still attach. This Commission will therefore not have to continue the public hearing again.

There was a motion made by Scott McLean to close the public hearing for the NOI for Fairfield Residential for 115, 119, 125, 129 Dean Avenue. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean to approve the NOI for Fairfield Residential for 115, 119, 125, 129 Dean Avenue with six stipulations: 1. The Applicant must present to the Commission prior to any construction, a measure to prevent/avoid any future discharge of waste material into the wetlands resource areas or buffer zones. If these measures require additional work in the buffer zone, an amendment to the Orders shall be submitted; 2. All planting must come from the *Best Development Practice Guidebook*, revised to 9/2016; 3. Conditions #20-35, 37-41, and 44; 4. Riprap to be extended to the bottom of the downstream slope of sediment forebay 1; 5. Extend the emergency spillway riprap for basin #3 to the bottom of the slope; 6. Modify the outlet structure of basin #3 as necessary to resolve issues in the 5/25/17 review from BETA on this basin. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

## **GENERAL BUSINESS**

### **Minor Buffer Zone Activities: 2 Cassandra Avenue**

Mr. Russell stated the applicant has requested an MBZA to extend the deck. The deck is outside the resource area. The procedural problem is that the entire project is being built under an NOI. The Commission has established that MBZAs cannot be used for modifications to an NOI unless they threaten life or safety. The applicant has filed the MBZA on the hope that the Commission will waive that policy for him. Mr. Russell stated the entire NOI is going to expire on July 21, 2017 and cannot be extended. Once the NOI is closed out or a stop work order is issued because everything is not done, the applicant would not be operating under the NOI and could file the MBZA, or the Commission can waive their policy and grant the extension of the deck. He noted this is an over-55 condominium complex.

Chairman Batchelor discussed the implications of who owns the deck in a condo.

Mr. McLean asked the applicant if he knew what the bylaws were and who owns the deck.

Mr. Robert Gilstein, 2 Cassandra Avenue, stated the way the bylaws the written, the deck is owned by him and the area under the deck is for his exclusive use. He stated the current NOI is still with the developer; the developer is still developing. He got approval from the Board of Directors to expand the deck.

Mr. McLean stated the Commission should have that in writing. The question is does he own the property?

Mr. Russell stated that in terms of wetlands impact, the expansion of the deck is a non-issue. It is a legal issue of who owns the deck. Is this Commission under law authorized to grant a permit to someone that does not own the property? Right now, in the Assessor's records, he does not own the property.

Chairman Batchelor stated he is not comfortable approving this. He stated the developer should be the applicant.

Mr. McLean suggested that the developer could apply for the MBZA after July 21 when the Order expires.

Mr. Russell stated that whoever applies must be the owner of the land.

There was a motion made by Scott McLean to deny the MBZA for 2 Cassandra Avenue due to lack of standing. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Minor Buffer Zone Activities: 4 Georgia Drive**

Mr. Russell stated the application was filed as the result of a letter from his office. It involves a shed and a children's playscape in place at the edge of the 100-ft. buffer. It does fall under the purview of the local bylaw. He recommended an MBZA which the applicant has filed.

Mr. George Papadopoulos, 4 Georgia Drive, in response to a question, stated there is no lead paint.

There was a motion made by Scott McLean to approve the MBZA for 4 Georgia Drive. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Permit Modification: 15 Bald Hill Drive**

Mr. Russell stated he recommended an extension of one year.

There was a motion made by Scott McLean to extend the permit for 15 Bald Hill Drive to June 12, 2018. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Certificate of Compliance: 15 Grace Lane**

Mr. Russell stated that based on his observations in the field and the as-built plan as submitted, there is a pool that has been built that is not on the original NOI. He recommended the Orders of Conditions not be released. It will require a letter to the engineer to indicate that it was not released and will require an amendment to the NOI.

There was a motion made by Scott McLean that the Certificate of Compliance will not be released for 15 Grace Lane. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Certificate of Compliance: 31 Hayward Street**

Mr. Russell stated there are two NOIs outstanding as indicated in his Agent's Report: 159-1045 and 159-1132. For 159-1032, the final wetland scientist report has been received. For 159-1045, there were some changes to the site in which some were done and some were not done; there was nothing done that was not approved. Also, a new NOI has been submitted for this project; it was agreed that the NOI would not go forward until the current two NOIs have been closed. He recommended both NOI releases be granted.

There was a motion made by Scott McLean to release both Certificates of Compliance for 31 Hayward Street: 159-1045 and 159-1132. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**Violations: 62 Elm Street**

Mr. Russell stated the applicant submitted a check, but no application. The check was sent back; he requested the application be filed and extended the deadline. The property owner submitted the application, but none of the supporting material required for the application. The application was sent back and he extended the deadline until June 15, 2017. The letter indicated that if the application is not filed by June 15, 2017 the fines will begin to be issued. He noted that this is for the skating rink.

**Minutes:**

There was a motion made by Scott McLean to approve the meeting minutes for May 18, 2017. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

**CHAIR AND COMMISSION COMMENTS**

Ms. Henrichon asked if the Stony Brook information was received regarding the walk at DelCarte.

Mr. Russell stated a formal motion to add this item to the agenda will be required.

There was a motion made by Tara Henrichon to have a timely discussion about an upcoming event at DelCarte and to add it to tonight's agenda. The motion was seconded by Scott McLean and accepted with a vote of 4-0-0.

**Discussion: DelCarte Event**

Ms. Henrichon stated that Stony Brook Wildlife Sanctuary made a small oversight in planning the event they are hosting with the Franklin Cultural Council regarding a free mindfulness walk with a yoga instructor. It is scheduled for June 7, 2017. The Commission requires a permit for activities on properties they maintain. She would like to approve that permit so they can host their walk.

Mr. Russell stated he had not received the permit.

Ms. Henrichon stated Doug sent the permit this morning via email to Mr. Russell. She explained the walking activity.

Mr. Russell stated that this use of DelCarte is a normal everyday use and a permit is not necessary. He suggested the Commission may want to have a formal vote that the proposed activity does not rise to the level of needing a permit.

There was a motion made by Tara Henrichon that the Commission decided that the Mass Audubon's Stony Brook Wildlife Sanctuary event on June 7, 2017 does not rise to the level of a permit because it is a normal walking activity on the trails. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Chairman Batchelor noted the DelCarte sign is gone.

Mr. Russell stated this is being looked into.



**Signed Minor Buffer Zone Activity, Orders of Conditions, Extension Permit, Certificates of Compliance, Determination of Applicability & Order of Resource Area Delineation**

Certificate of Compliance – 31 Hayward Street – Moseley - CE159-1045

Certificate of Compliance – 31 Hayward Street – Moseley – CE159-1132

Extension Permit – 15 Bald Hill Drive – Goodermuth – CE159-1065

Minor Buffer Zone Activity – 4 Georgia Drive – Papadopoulos

Orders of Conditions – Dean Avenue – Halligan Properties – CE159-1155

ORAD – 21 Echo Bridge Road – Brunner – CE159-1159

Determination of Applicability (Positive) 82 Elm Street – Graf

There was a motion made by Scott McLean to adjourn the meeting. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

The meeting adjourned at 9:01 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary